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# HOUSE BILL No. 1320

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 35-38-6.

**Synopsis:** Death penalty moratorium. Places a moratorium upon executions for murder until April 1, 2004. Establishes an eight member murder sentencing study committee to review and analyze all trials that involved murders committed in Indiana after July 1, 1976, and before July 1, 2002. Specifies that the review and analysis must examine: (1) the facts, including mitigating and aggravating circumstances; (2) the race, gender, religious preference, and economic status of the defendant and murder victim; (3) the result of the judicial proceeding; and (4) the sentence imposed on the defendant. Allows the committee to make legislative recommendations based on the review and analysis, if appropriate. Requires the committee to issue a final report to the legislative council before November 1, 2003.

**Effective:** Upon passage.

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January 15, 2002, read first time and referred to Committee on Courts and Criminal Code.

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Introduced

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

## HOUSE BILL No. 1320

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 35-38-6-1 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The  
3 punishment of death shall be inflicted by intravenous injection of a  
4 lethal substance or substances into the convicted person:  
5 (1) in a quantity sufficient to cause the death of the convicted  
6 person; and  
7 (2) until the convicted person is dead.  
8 (b) The death penalty shall be inflicted before the hour of sunrise on  
9 a date fixed by the sentencing court. However, the execution must not  
10 occur until **after March 31, 2004, or** at least one hundred (100) days  
11 after the conviction, **whichever is later**.  
12 (c) The warden of the state prison, or persons designated by the  
13 warden, shall serve as the executioner.  
14 (d) The department of correction may adopt rules under IC 4-22-2  
15 necessary to implement subsection (a).  
16 SECTION 2. IC 35-38-6-7 IS AMENDED TO READ AS  
17 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) If the

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convicted person:

(1) escapes from custody before the date set for his execution; and  
 (2) is recaptured before the date set for his execution;  
 he shall be returned to the state prison and executed according to the terms of the warrant.

(b) If the convicted person:

(1) escapes from custody before his delivery to the warden; and  
 (2) is recaptured after the date set for his execution;  
 any person may arrest him and commit him to the jail of the county in which he was sentenced. The sheriff shall notify the sentencing court of the recapture, and the court shall fix a new date for the execution. The new execution date must not be less than thirty (30) nor more than sixty (60) days after **March 31, 2004, or** the recapture of the person, **whichever is later**. The court shall issue a new warrant in the form prescribed by section 2 of this chapter.

(c) If the convicted person:

(1) escapes from the state prison; and  
 (2) is recaptured after the date set for his execution;  
 any person may arrest him and commit him to the state prison. When he is returned to the state prison, the warden shall notify the sentencing court, and the court shall fix a new date for the execution. The new execution date must not be less than thirty (30) nor more than sixty (60) days after **March 31, 2004, or** the recapture of the person, **whichever is later**. The court shall issue a warrant to the warden directing him to execute the convicted person at a specified time and date in the state prison.

SECTION 3. IC 35-38-6-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. If the physician of the prison and one (1) other physician certify in writing to the warden and the sentencing court that a condemned woman is pregnant, the warden shall suspend the execution of the sentence. When the prison physician and one (1) other physician certify in writing to the warden and the sentencing court that the woman is no longer pregnant, the sentencing court shall immediately fix a new execution date **that is after March 31, 2004**.

SECTION 4. [EFFECTIVE UPON PASSAGE] (a) **The murder sentencing study committee is established.**

(b) **The committee consists of eight (8) members as follows:**

(1) **Four (4) members of the house of representatives appointed by the speaker of the house of representatives. Not more than two (2) members appointed under this subdivision may represent the same political party.**

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(2) Four (4) members of the senate appointed by the president pro tempore of the senate. Not more than two (2) members appointed under this subdivision may represent the same political party.

(c) The chairman of the legislative council shall designate one (1) member of the committee to be chairperson of the committee.

(d) Each member of the committee appointed under subsection (b)(1) or (b)(2) is entitled to receive the same per diem, mileage, and travel allowances paid to members of the general assembly serving on legislative study committees established by the legislative council.

(e) The committee shall do the following:

(1) Review and analyze all trials that involved murders committed in Indiana after July 1, 1976, and before July 1, 2002. The review and analysis must examine the following in each trial:

(A) The facts, including mitigating and aggravating circumstances.

(B) The race, gender, religious preference, and economic status of the defendant and murder victim.

(C) The result of the judicial proceeding.

(D) The sentence imposed on the defendant.

(2) Make legislative recommendations based on the review and analysis conducted under subdivision (1), if appropriate.

(3) Study other topics as assigned by the legislative council.

(f) The committee shall issue a final report to the legislative council regarding the matters listed under subsection (e) before November 1, 2003.

(g) The committee is under the jurisdiction of the legislative council and shall operate under policies and procedures established by the legislative council.

(h) Staff and administrative support for the committee shall be provided by the legislative services agency.

(i) The affirmative votes of a majority of the voting members appointed to the committee are required for the committee to take action on any measure, including final reports.

(j) This SECTION expires November 2, 2003.

SECTION 5. [EFFECTIVE UPON PASSAGE] (a) A court that before the effective date of this SECTION issued an order under IC 35-38-6-1, IC 35-38-6-7, or IC 35-38-6-10 setting a date of execution that is before April 1, 2004, shall, on its own motion, modify the order to set a new date for the execution that is after

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1     **March 31, 2004. The court shall issue the order modifying the**  
2     **execution date:**

- 3         **(1) before the execution date and time set for the offender;**  
4         **(2) at least five (5) days before the execution date set for an**  
5         **offender; or**  
6         **(3) within sixty (60) days after the effective date of this**  
7         **SECTION;**

8     **whichever is earliest.**

9         **(b) If a court fails to set a new execution date as provided by this**  
10     **SECTION, any person may petition the supreme court to mandate**  
11     **the enforcement of this SECTION under the Rules of Procedure**  
12     **for Original Actions adopted by the supreme court.**

13         **(c) This SECTION expires April 1, 2004.**

14     **SECTION 6. An emergency is declared for this act.**

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